DOCUMENT RESUME

ED 142 625 UD 017 121

TITLE The Summer Feeding Program: How to Feed the Children and Stop Program Abuses. Report to the Committee on Education and Labor, House of Representatives, by the Comptroller General of the United States.

INSTITUTION Comptroller General of the U.S., Washington, D.C.

PUB DATE 15 Apr 77

NOTE 30p.

EDRS PRICE MF-$0.83 HC-$2.06 Plus Postage.

DESCRIPTORS *Administrative Problems; Agency Role; Community Agencies (Public); *Federal Programs; Food Service; Law Enforcement; *Legal Problems; *Lunch Programs; Nutrition; Private Agencies; Program Administration; Site Selection; State Government; *Summer Programs

IDENTIFIERS *National School Lunch Act

ABSTRACT

The summer food service program for children, authorized by the National School Lunch Act is one of several childfeeding programs which the Congress authorized to safeguard the health and well-being of the nation's children. Serious abuses, criminal as well as administrative, have occurred in the summer feeding program. Most have involved private nonprofit organizations which comprised three-fourths of the program's sponsors. Public agency sponsors operated programs relatively free of abuses. The Department of Agriculture revised the program's regulations to try to prevent abuses. The General Accounting Office (GAO) is recommending additional changes covering sponsor and site selection and termination, contracting procedures, state staffing and monitoring, sponsor recordkeeping, and advances of funds. Many of these changes would not be necessary if only schools and public agencies were permitted to be sponsors. GAO is recommending that the program's authorizing legislation be revised to authorize only schools and public agencies as sponsors. GAO is also recommending legislative changes dealing with adminstrative funds for states and sponsors, definitions of eligible sponsors and children, the number of food services allowed each day, and the issuance of program regulations. (Author/JM)

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REPORT TO THE COMMITTEE ON EDUCATION AND LABOR HOUSE OF REPRESENTATIVES

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

[D142625

The Summer Feeding Program--How To Feed The Children And Stop Program Abuses

Food and Nutrition Service Department of Agriculture

Serious abuses--criminal as well as administrative--have occurred in the summer feeding program. Most have involved private nonprofit organizations which comprised three-fourths of the program's sponsors. Public agency sponsors, such as schools and park departments, operated programs relatively free of abuses.

The Department of Agriculture revised the program's regulations to try to prevent abuses. GAO is recommending additional changes covering sponsor and site selection and termination, contracting procedures, State staffing and monitoring, sponsor record-keeping, and advances of funds. Many of these changes would not be necessary if only schools and public agencies were permitted to be sponsors.

GAO is recommending that the program's authorizing legislation be revised to authorize only schools and public agencies as sponsors. GAO is also recommending legislative changes dealing with administrative funds for States and sponsors, definitions of eligible sponsors and children, the number of food services allowed each day, and the issuance of program regulations

CED-77-59

APRIL 15, 1977

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-178564

The Honorable Carl D. Perkins, Chairman
Committee on Education and Labor
House of Representatives

Dear Mr. Chairman:

Pursuant to your August 24, 1976, request and subsequent discussions with your office, we reviewed various aspects of the summer food service program for children in light of alleged abuses during program operations in major urban areas. Also, pursuant to your request, on March 23, 1977, we testified in hearings before your Subcommittee on Elementary, Secondary, and Vocational Education on the findings and recommendations resulting from our review.

Our review centered on identifying the causes of abuses that had been detected by other groups, primarily the Departments of Agriculture and Justice, and by Congresswoman Holtzman and various State officials. We did not attempt to identify and document additional abuses. As agreed with your office, we were careful not to impede in any way the criminal investigations being made by the two departments. Three indictments and one conviction have resulted from these investigations.

We also took into account the results of our earlier review on which we reported to the Congress on February 14, 1975 (RED-75-336).

Our review was conducted at the Food and Nutrition Service headquarters in Washington, D.C., and at two of its regional offices (Mid-Atlantic--Princeton, N.J., and Western--San Francisco, Calif.). We concentrated on program operations in New York City, Los Angeles County, Philadelphia, Baltimore, and the related State agencies.

On December 10, 1976, we briefed your office and the Department of Agriculture on our proposals for administrative changes to strengthen the program. The Department's informal comments were considered and incorporated in our administrative recommendations as appropriate. The Department issued proposed regulations on December 21, 1976, and final regulations on March 1, 1977. The new regulations are intended to correct or alleviate many of the problems and abuses found

in past programs. We believe, however, that certain additional administrative revisions along the lines we had proposed should have been made. These additional revisions are described in our report which is enclosed (see enclosure I) and which follows generally along the lines of our statement before your Subcommittee during the March 23 hearings.

We believe also that the program's authorizing legislation needs to be revised to help prevent abuses of the program. These legislative revisions are also discussed in our report and specific language to effect the revisions is contained in enclosure II, as you requested during the March 23 hearings. Our suggested legislative language was discussed with Department officials. Their comments were considered and incorporated as appropriate.

Our report contains recommendations to the Secretary of Agriculture. As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report. We will be in touch with your office in the near future to arrange for release of the report so that the requirements of section 236 can be set in motion.

Sincerely yours,

R. F. Keller

Comptroller General
of the United States

Enclosures (2)

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GAO REPORT ON PROBLEMS AND PROPOSED SOLUTIONS FOR THE SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

The summer food service program for children, authorized by section 13 of the National School Lunch Act, as amended (42 U.S.C. 1751 et seq.), is one of several childfeeding programs which the Congress authorized to safeguard the health and well-being of the Nation's children. It is designed to feed, during the summer vacation, children from areas in which poor economic conditions exist.

At the Federal level, the program is administered by the Food and Nutrition Service, Department of Agriculture. Below the Federal level, the program is generally administered by the State education agency which enters into agreements with local sponsors to operate the program at approved feeding sites. Sponsors either prepare meals themselves or enter into agreements with food vendors for delivery of food to the feeding sites. If the State agency cannot or will not administer the program, the Food and Nutrition Service administers it as the State agency would. Within prescribed limits, all program and administrative costs are paid by the Federal Government.

In recent years, program participation and costs have substantially increased. During the summer of 1975, a reported 2.4 million children were fed at over 16,000 sites maintained by about 1,200 sponsors. The Federal cost of the 1975 program was about $65 million. For the summer of 1976, it is estimated that 3.7 million children were fed at nearly 25,000 sites maintained by over 2,100 sponsors. Federal costs for the 1976 program are estimated at about $169 million.

PROGRAM ABUSES

The problems which occurred in the 1976 program were similar to those noted in earlier years by Department of Agriculture auditors and in our February 14, 1975, report (RED-75-336). Typical reported abuses were

--food waste caused by inadequate storage facilities;

--deliberate dumping of food by some vendors, sponsors, or site personnel;

--food thrown away because it was of poor quality, spoiled, or unappetizing;

--failure to adjust meal orders based on actual daily participation;

--consumption of meals by adults;

--off-site consumption by children;

--failure to follow the required meal pattern/nutritional standards and delivery schedules;

--simultaneous service of different meals;

--indications of kickbacks and bribes to sponsors from vendors supplying meals to the program;

--improper bidding procedures which resulted in contracts being awarded at the maximum allowable rates;

--overpayments to sponsors based on improper claims for reimbursement; and

--maintenance of incomplete and inaccurate data on the number of meals delivered and the number of children fed.

Generally, serious program abuses involved private nonprofit sponsors. About three-fourths of the sponsors operating the 1976 summer food service program were private nonprofit organizations--the other one-fourth were schools or city and county government agencies, such as park departments. One of the locations included in our review used only a public agency as a sponsor and two used both public and private sponsors. From what we could learn, the public agencies ran relatively good programs. We believe that many of our proposals for changes in program regulations and many of the changes the Department has made in the regulations might not be necessary for public agencies.

ADDITIONAL ADMINISTRATIVE CHANGES NEEDED

Although the Department of Agriculture made important changes to its 1977 regulations to improve the operation of the program, additional changes are needed, as discussed in the following sections. We suggested these changes to Department officials in December 1976.

Sponsor applications

For the 1976 program, the Service's regulations generally required that sponsors' applications be submitted to the States at least 30 days before the start of food service. This 30-day interval proved to be totally inadequate for some States, particularly the larger ones, to adequately evaluate

prospective sponsors' qualifications and the service they proposed to provide. It was reported that many incompetent and dishonest sponsors were approved for the 1976 program.

The 1977 regulations give each State authority to establish the date by which sponsor applications must be submitted. This provision should be helpful in alleviating the problems that occurred in 1976, but we continue to believe that the dates established by the States should be included in State plans, and that they should be subject to Service approval so that the States have enough time to evaluate the applications.

Sponsor termination

Previously States have had authority to terminate sponsors for cause or convenience; however, we found no instances where sponsors were terminated during 1976 although serious problems in sponsor operations were disclosed. We proposed that the Food and Nutrition Service provide guidance to the States regarding grounds for sponsor termination and for providing alternative means of continuing the feeding operations of terminated sponsors. The 1977 regulations partially addressed this matter by providing guidance on sponsor termination for failure to comply with procurement requirements. However, they do not give criteria for terminating a sponsor for otherwise unsatisfactory performance, and do not suggest alternate means for feeding children once a sponsor has been terminated.

Site approval and limitations

Inadequate criteria for approving sites resulted in approval of a number of unsatisfactory feeding sites in 1976. The 1976 regulations required that sponsors submit information on each proposed site, but the regulations did not define what constituted an eligible site and failed to prescribe procedures for site approval. As a result, most sites were routinely approved. When feeding operations began, problems arose. Sites were found to have inadequate food storage and service facilities; some sites were assigned to more than one sponsor; and sites were claiming to serve more lunches than there were children residing in the area. In one instance sites reportedly served 44,500 lunches daily in an area with only 28,400 children under 19 years of age.

The regulations for 1977 limit the number of children that can be served at a feeding site and the number of sites each sponsor can be responsible for. State personnel will be required to conduct preprogram site visits to all nonschool

sites in larger cities. Also, States will have the authority to limit the types of meals served. These revisions will be helpful, but additional regulations are needed to:

--Define what constitutes an acceptable feeding site.

--Require States to visit all sites before approval to avoid the kinds of major problems experienced in the past.

--Require States to disapprove clustered sites to reduce competition for participants, unless such clustering is necessary to feed eligible children in the area.

Site termination

While prior and current regulations have given States the authority to terminate sponsors, there is no criteria for terminating unsatisfactory sites. Consequently, unsatisfactory sites were not closed last summer until disclosure of repeated and numerous violations, such as improper food storage and off-site consumption of food. The 1977 regulations provide for a State to restrict sites to one meal service a day--rather than allowing up to five a day as is sometimes the case--for certain violations of food service requirements. In addition, the Service should provide criteria and guidance for terminating individual sites and for providing alternate feeding sites.

Sponsor-vendor relationships

Program regulations for 1976 and earlier years did not give State agencies adequate control over sponsors' bidding and contracting activities. As a result, past program operations were affected by serious procurement problems and abuses, including alleged vendor kickbacks to sponsors, falsification of sponsors' reimbursement claims, award of improper contracts at the maximum rates to favored vendors, and a lack of competition for food service contracts.

The Service's 1977 regulations address these problems by requiring that:

--States witness the public bid openings for sponsors expected to receive more than $100,000.

--States develop standard contracts for all sponsors and vendors to use to prevent them from writing provisions favorable to themselves and from omitting penalties for such things as nonperformance.

--The award of all vendor contracts of $100,000 or more, or contracts exceeding the lowest bid by more than 2 cents a meal shall be subject to State approval (1977 regulations state that a bidder other than the lowest bidder may receive the award if it is more advantageous to the sponsor).

The 1977 regulations also require vendor bonding and health certificates.

Additional requirements are needed, however, as follows.

--Sponsors who contract for food services should be required to publicly solicit bidders by advertising in two or more general circulation newspapers, as well as in trade journals, the Commerce Business Daily, or other appropriate media whenever practicable.

--Sponsors should be required to accept the lowest bid unless circumstances make acceptance of another bid more beneficial to the program (rather than to the sponsor) and this can be adequately justified to the State.

--After the bid openings, but before award of contracts exceeding $100,000, States should be required to evaluate the prospective vendor, inspect the vendor's food preparation facilities, inquire into potential conflicts of interest between the contracting parties, and consider the vendor's prior performance in this and other child nutrition programs.

--All sponsor-food vendor contract awards for sponsors entering contracts totaling more than $100,000 should be subject to State approval.

Timing administrative funds advances to States

In 1976 the final advance of funds for State administrative costs was made as late as August, although it was planned for July 15. Several States complained that they needed this last advance earlier to match their actual needs for cash and that late receipt of the advance prevented them from spending money for needed administrative measures. We suggested that the Service make the final advances by June 15.

The Service's new regulations provide for some acceleration of advances to States. More money will be made available earlier; however, the final advance could still be made as late as July 15. We continue to believe that the final advance should be made by June 15.

State program staffing

Late hiring plus underestimating actual staff needs by the States resulted in State agencies not having the resources needed to adequately monitor and administer the 1976 program. To give this program the year-round attention it needs in the larger program States, we proposed that the Service require permanent, full-time or equivalent, year-round State agency staffing in each State where the program is expected to exceed $5,000,000 a year.

The Service did not adopt our proposal. Its new regulations simply state that State staffing be available in sufficient time to properly plan and implement the program. We continue to believe that year-round staffing should be required in States where the programs are expected to exceed $5,000,000.

Program monitoring by States

The Service's regulations for last summer required limited monitoring of sponsors and their sites by the States. States' monitoring efforts in major urban areas, for the most part, were inadequate to assure the integrity of program operations and to minimize abuses. In some cases, along with being insufficient in numbers, monitors were hired late and were poorly qualified or trained.

The 1977 regulations strengthen the States' requirements for monitoring of sponsors and sites. Before approving their participation in the program, States will be required to visit sponsors that have not participated previously in the program and sponsors that will receive more than $50,000 in program payments. Additionally, State agencies that expect to receive more than $250,000 in State administrative funding are required to conduct reviews during the first 4 weeks of operations of certain multisite sponsors, especially if the sites are located in cities with a school enrollment exceeding 75,000. Also, the States, for the first time, will be responsible for some monitoring of food vendor operations and may require the registration of all vendors desiring to contract with a sponsor.

The 1977 regulations do not, however, fully incorporate our proposals. We proposed that the States also be required to visit all sites during the first 4 weeks of operations and to concentrate subsequent State monitoring on sites found to have serious deficiencies. We also proposed that the Service require that State program plans include information on the frequency of visits to feeding sites and vendors and the scope of State monitoring. Any State plans found to be inadequate in this regard should not be approved.

Program monitoring by sponsors

The new regulations increase the requirements for the self-monitoring of sites by sponsors. However, self-monitoring has not always been effective partially because sponsors have no strong incentives to report and correct deficiencies. The sponsor does not pay for meals and the sponsor's administrative cost reimbursement ceiling increases with each meal reported as having been served.

Consequently, we support an expanded State role in monitoring program operations--as discussed previously.

Sponsor recordkeeping

Sponsor recordkeeping in sufficient detail to justify the reimbursement claimed is needed to protect the Government's interest. The maintenance of inadequate sponsor and site records has been a continuing problem in this program and was one of the major problems affecting program operations in some of the States we visited.

The regulations call for maintaining records on numbers of meals reported as being served. Such information is not adequate to support the sponsors' claims. Sponsors should be required to keep rosters of the names of children served to support claims for reimbursement.

LEGISLATIVE CONSIDERATIONS

In view of past program abuses, some legislative changes could help eliminate or minimize the extent of program abuses and could help improve operations in future years.

Sponsor eligibility

The current law provides that "Any eligible service institution shall receive the summer food program upon its request." This provision has created the impression among some States that all nonprofit service institutions that

apply are automatically eligible. As a result, all service institutions that applied in 1976 were approved in the four States we visited. We were told that some of these sponsors proved to be incompetent or dishonest.

The Food and Nutrition Service told us that, on the basis of its informal discussions with the Subcommittee on Elementary, Secondary, and Vocational Education, House Committee on Education and Labor, it considers this provision to mean that sponsors could not be disapproved solely because Federal funds were not available. There is some clarification in the Service's 1977 regulations which provide criteria for determining which sponsors must be selected first if more than one sponsor wants to serve the same children. We note, however, that public agencies do not have top priority under these criteria; we believe they should. The regulations also contain overall standards and criteria for sponsor eligibility which, among other things, will allow States to reject sponsor-applicants that have an unsatisfactory previous record in the program.

Although the Service's new regulations may be helpful in clarifying the misunderstanding that occurred in 1976, we believe the Congress should make it clear that the law does not require approval of every service institution that applies.

Establishing children's eligibility

Current legislation establishes program eligibility on an area basis--eligible areas are those in which at least one-third of the children are eligible for free or reduced price school meals. Once sites are established to serve eligible areas, all children attending the sites can get free meals. Such program eligibility has caused problems in determining the eligibility of various areas and of residential summer camps not located in target areas.

Although program officials generally believed that few urban sites would fail to meet the eligibility requirement, they said that it is difficult to establish the eligibility of particular sites under the criteria in the law because data is not generally available to ascertain whether one-third of the children in the target area are needy (as required by law). They suggested that census data, which is available by geographically defined tracts and includes information on needy families, should become the primary criterion for determining site eligibility--especially in urban areas.

Such a change may alleviate some of the difficulty with the present criteria. As we indicated earlier, however, this program has grown rapidly. Yet, under the one-third criteria, more than half of the children participating in some areas can be from nonneedy families and not be charged for the meals received. The Congress could increase the one-third requirement, but this should be considered with care since any increase could eliminate needy children from the program. Another approach would be to replace the area eligibility concept with eligibility based on the needs of individual participants, as is required in the school lunch and breakfast programs.

Residential camps and other institutions operating programs which are required to formally enroll children should be paid only for meals for individual children determined to be needy, regardless of the eligibility criteria established for the rest of the program.

Meal service

The current legislation states that "No service institution shall be prohibited from serving breakfasts, suppers, and meal supplements as well as lunches unless the service period of different meals coincides or overlaps."

In 1976 the four States we reviewed routinely approved the number of food services--up to five a day--desired by the sponsors because approval appeared mandatory. Some sponsors competed for children by offering to serve more meals than other sponsors, food was wasted because of inadequate storage facilities and because too much food was being pushed at the children, and costs spiraled.

It is our understanding that the summer feeding program was originally intended to serve as a vacation substitute for the school feeding programs available to needy children during the school year. Several State and Service officials noted that it seemed inconsistent for a child to receive up to five meals a day under the summer program while under the school feeding programs the child would receive, at a maximum, breakfast, lunch, and extra milk. Some State officials also noted that five food services in one day are too many for most children.

In view of the program's objectives and operating problems, the Congress may want to limit meal services under the program to breakfast, lunch, and a supplement, except in the case of residential camps where the needy child cannot go

home for supper and funds from other sources are not available to pay for the meal.

State administrative funds

The current law provides that State costs for administering the summer food service program will be reimbursed up to 2 percent of program costs in each State each year. State officials have complained that this provision makes it very difficult for them to plan and budget their activities because they do not know the amount of administrative funds they are entitled to receive until after the program is over each year and the money has already been spent.

Most States are short of funds and some are not willing to risk having to finance part of the administrative cost of the summer food service program with State funds. Consequently, some have been very cautious in spending money on the administration of this program. The result was that some States have not been spending all of the administrative funds that ultimately would have been available to them under the law and which, if properly used, could have improved program administration. For example, one State included in our review spent the equivalent of two-tenths of 1 percent of total program costs (current estimate). On the other hand, another State exceeded the 2-percent limit because it overestimated program costs.

Any arrangement for reimbursing State administrative costs that prevents States from knowing in advance how much they can be reimbursed for the costs of administration has serious drawbacks. We believe that the Service should be given authority to negotiate with the States, on the basis of State-prepared budgets and plans, to determine a maximum amount up to which a State's actual costs could be reimbursed. If the Congress determines that a legislative maximum is necessary on the amount of administrative funds any State may receive, the maximum should be determinable well in advance of the time the States must establish their budgets.

Sponsor administrative costs

Sponsors are reimbursed for their actual allowable administrative costs subject to a ceiling based on a legislatively specified amount per meal for each type of meal service. This provision has created an incentive for waste and cheating. If sponsors increase the number

ENCLOSURE I

of meals they report as served, the maximum amount of administrative funds they may receive is also increased.

We believe that the Congress should require that the maximum reimbursement of each sponsor's administrative costs be based on a program-related budget approved by the State. Each State should be required to establish guidelines--which should be subject to Service approval--for the size and salary of the sponsors' staffs, as well as other administrative costs based on the number of sites each sponsor is handling.

Advance payments to sponsors

The Service is required to make advance payments to each State by June 1, July 1, and August 1 each year to be used by the States for making advance payments to sponsors. The payments are to be the greater of (1) the amount earned in the same month the year before or (2) 65 percent of the amount expected to be earned during the month. The law has been interpreted as requiring that States pass on the advance funds to each sponsor in the same amount as was provided to the State.

In some cases this provision has resulted in advance payments larger than a sponsor's cash needs or its eligible claims for reimbursement because of sponsor overestimates of program size. We suggest that State agencies be given flexibility to make advance payments to sponsors based on States' determinations of sponsors' needs.

Program regulations

The Department is required to publish final program regulations, guidelines, applications, and handbooks by March 1 of each fiscal year. State officials have described this date as being too late for orderly implementation of the program and as being a contributing cause for the problems affecting the 1976 summer program. To give States and sponsors more planning time, we suggest that the Department be required to publish final regulations by January 1 and guidelines, applications, and handbooks by February 1.

Limiting program sponsorship

The summer food service program is designed to continue into the summer the benefits of the school feeding programs available during school months. Schools and public agencies, such as local parks and recreation departments, may be in the best position to provide the services the Congress is

seeking without the widespread abuses that seem, in many cases, to be motivated by opportunities for economic gain.

Most of the changes in regulations recommended in this report address the problems which have arisen with private sponsors involved in operating the program. Most of these recommended changes and many of the changes the Department made in the regulations for 1977 would be unnecessary if program sponsors were limited to schools participating in the school lunch program, residential camps for needy children, and public agencies.

While most Federal and State officials we talked to said that this would be a desirable approach, they cautioned that keeping the schools open during the summer would involve significant additional expenses beyond those currently reimbursable under the law. Also, there may be other problems in some localities not accustomed to keeping schools open all year.

Such a change would require that the schools or other organizations be reimbursed for reasonable additional costs; however, there are advantages to such an approach and the Congress should revise the legislation accordingly.

RECOMMENDATIONS TO THE SECRETARY OF AGRICULTURE

We recommend that, if private nonprofit sponsors are to continue operating the summer food service program for children, the Secretary of Agriculture revise the program's regulations to:

--Require that State program plans include the dates established by the States by which sponsor applications must be submitted and require Service approval of such dates.

--Provide criteria for terminating a sponsor for grounds other then failure to comply with procurement regulations and provide guidance for alternate feeding of children affected.

--Define what constitutes an acceptable feeding site.

--Require States to disapprove clustered sites to reduce competition for participants, unless it is necessary to feed all eligible children in the area.

--Provide criteria and guidance for terminating individual sites and for providing alternate feeding sites.

--Require sponsors who contract for food services to publicly solicit bidders through specified means of advertising.

--Require sponsors to accept the lowest bid for food services unless the sponsor adequately justifies to the State that another bid is more beneficial to the program.

--Require States to evaluate prospective vendors after bid openings but before award of contracts exceeding $100,000.

--Require that all sponsor-food vendor contract awards for sponsors entering contracts totaling more than $100,000 be subject to State approval.

--Provide for the final advance of funds for State administrative expenses to be made by June 15.

--Require permanent, full-time or equivalent, year-round State staffing in States where the program is expected to exceed $5,000,000 a year.

--Require States to visit all sites during the first 4 weeks of operations and concentrate subsequent monitoring on sites with serious deficiencies.

--Require that State program plans include information on the frequency of visits to feeding sites and vendors and the scope of State monitoring.

--Require sponsors to keep rosters of enrolled children to support their claims of meals served.

--Give top priority to schools and public agencies in selecting program sponsors.

If only schools and public agencies are to sponsor the program, we recommend that the Secretary review the above recommendations and the present program regulations and institute only those controls and requirements which are necessary for such sponsors.

ENCLOSURE I

RECOMMENDATIONS TO THE CONGRESS

In view of the past abuses in the program, the Congress should enact the following legislative changes to help eliminate or minimize the extent of abuses and to improve operations in future years.

--Clarify that the legislation does not require approval of every service institution that applies.

--Establish census tract data as the primary criterion for determining site eligibility--especially in urban areas--or replace the area eligibility concept with eligibility based on the needs of the individual participants.

--Require that residential camps and other sponsors requiring enrollment in their programs be paid only for meals for individual children determined to be needy.

--Reduce the number of authorized meal services.

--Give the Service the authority to negotiate with the States to determine a maximum amount for reimbursement of actual State administrative costs based on State-prepared budgets and plans.

--Provide for maximum sponsor administrative cost reimbursement based on program-related budgets approved by the States.

--Give States the flexibility to make advance payments to sponsors on the basis of State determinations of need.

--Require issuance of program regulations by January 1 of each year and of program guidelines, applications, and handbooks by February 1.

--Limit program sponsorship to schools, public agencies, and nonprofit residential camps.

Specific legislative language to effect these changes is included in enclosure II.

GAO RECOMMENDATIONS FOR CHANGES IN SECTION 13 OF THE NATIONAL SCHOOL LUNCH ACT AS AMENDED, AS REQUESTED BY THE CHAIRMAN, SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

LIMITING PROGRAM SPONSORSHIP

Discussion

Schools and public agencies, such as local parks and recreation departments, seem to be in the best position to provide the summer feeding services the Congress is seeking without widespread abuses. Generally, the serious program abuses in the past have involved private nonprofit sponsors. Many of the program's administrative requirements and most of the changes in regulations recommended in this report would be unnecessary if program sponsors were limited to schools participating in the school lunch program, public agencies, and residential camps for needy children. (See enc. I, pp. 1 and 11.)

The following changes would so limit program sponsorship. They also would allow sponsors such as recreation departments to contract for needed services. However, they should remain involved in day-to-day operations.

Changes

Delete the second sentence of section 13(a)(1) which reads:

> "For purposes of this section, the term 'service institutions' means nonresidential public or private, nonprofit institutions, and residential public or private nonprofit summer camps that develop special summer programs providing food service similar to that available to children under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 during the school year."

Insert in lieu of the second sentence in section 13(a)(1):

> "For purposes of this section, the term 'service institutions' means any school participating in the

school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 during the school year; any State or local government agency; or any residential public or private nonprofit summer camp that develops and manages special summer programs providing food service similar to that available to children under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 during the school year."

Delete section 13(l) which reads:

"(l) Nothing in this section shall be construed as precluding a service institution from contracting on a competitive basis for the furnishing of meals or administration of the program, or both."

Insert:

"(l) Service institutions operating summer food service programs under this section may contract for food and its preparation; rental of facilities in which food is served; and auditing, legal, and such other goods and services as the Secretary determines are reasonable to obtain by contract. All contracts shall be awarded on a competitive basis to the maximum extent practicable."

SPONSOR ELIGIBILITY

Discussion

Contrary to what the Congress apparently intended (see enc. I, p. 7), the current law has been interpreted by States as requiring approval of all private nonprofit sponsors that apply. This has resulted in approvals of sponsors who turned out to be incompetent or dishonest. The following change would make it clear that the Congress does not require approval of every service institution that applies.

Change

Delete the last sentence in section 13(a)(1) which reads:

"Any eligible service institution shall receive the summer food program upon its request."

ESTABLISHING CHILDREN'S ELIGIBILITY

Discussion

Problems have arisen in applying the current area eligibility provision in the law, as discussed in enclosure I, page 8. It has been difficult to define an "area" and to determine whether poor economic conditions exist as prescribed in the law. Also, use of the area eligibility concept allows nonneedy children to receive free meals.

We are presenting two alternatives for correcting this situation. One uses a modified area eligibility approach and the other drops area eligibility entirely and adopts an individual eligibility approach, as is used in the school lunch and school breakfast programs.

Changes

Alternative 1:

Delete section 13(a)(2) which reads as follows:

> "(2) Service institutions eligible to participate under the program authorized under this section shall be limited to those which conduct a regularly scheduled program for children from areas in which poor economic conditions exist, for any period during the months of May through September, at site locations where organized recreation activities or food services are provided for children in attendance."

Insert new section 13(a)(2):

> "(2) Service institutions eligible to participate under the program authorized under this section shall be limited to those
>
> --which conduct a regularly scheduled program for children from areas in which poor economic conditions exist, if the children are not required to enroll in the program, or
>
> --which conduct a regularly scheduled program that includes children from families whose children are eligible for free and reduced price meals

under the National School Lunch Act and the Child Nutrition Act, if the children are required to enroll in the program,

for any period during the months of May through September, at site locations where organized recreation activities or food services are provided for children in attendance."

Delete the first sentence of section 13(a)(3) which reads:

"(3) For the purposes of this section, 'poor economic conditions' shall mean an area in which at least 33-1/3 per centum of the children are eligible for free or reduced price school meals under the National School Lunch Act and Child Nutrition Act as shown by information provided from model city target areas, departments of welfare, zoning commissions, census tracts, by the number of free and reduced price lunches or breakfasts served to children attending schools located in the area of summer food sites, or from other applicable sources."

Insert preceding the last sentence of section 13(a)(3):

"(3) For the purposes of this section, 'poor economic conditions' shall mean a census tract defined as a 'poverty area' by the Bureau of the Census, Department of Commerce, except that, if the Secretary determines that Bureau of the Census census tract data is not available for the area in question or that the use of census tract data is inappropriate for the specified area in question, he may approve such areas based on other comparable data showing that poor economic conditions exist."

Delete second sentence of section 13(e) which reads:

"Such meals shall be served without cost to children attending service institutions approved for operation under this section."

Insert in lieu of the deleted sentence in section 13(e):

"Such meals shall be served without cost to children attending daily programs operated by approved service institutions which do not require enrollment. Residential camps and other approved service institutions which require the children to enroll shall be reimbursed for only those meals served to children from families

whose children are eligible for free or reduced price meals under the National School Lunch Act and the Child Nutrition Act."

Alternative 2:

Delete section 13(a)(2) which reads:

"(2) Service institutions eligible to participate under the program authorized under this section shall be limited to those which conduct a regularly scheduled program for children from areas in which poor economic conditions exist, for any period during the months of May through September, at site locations where organized recreation activities or food services are provided for children in attendance."

Insert new section 13(a)(2):

"(2) Service institutions eligible to participate under the program authorized under this section shall be limited to those which conduct a regularly scheduled program for eligible children as defined in subsection (e) of this section for any period during the months of May through September at site locations where organized recreation activities or food services are provided for children in attendance."

Also delete the first sentence of section 13(a)(3) which reads as follows:

"(3) For the purposes of this section, 'poor economic conditions' shall mean an area in which at least 33-1/3 per centum of the children are eligible for free or reduced price school meals under the National School Lunch Act and Child Nutrition Act as shown by information provided from model city target areas, departments of welfare, zoning commissions, census tracts, by the number of free and reduced price lunches or breakfasts served to children attending schools located in the area of summer food sites, or from other applicable sources."

Delete the second sentence of section 13(e) which reads:

"Such meals shall be served without cost to children attending service institutions approved for operation under this section."

Insert in lieu of the deleted second sentence in section 13(e):

> "Such meals shall be served without cost to children from families whose children are eligible for free or reduced price meals under the National School Lunch Act and the Child Nutrition Act. Meals served to others will not be eligible for reimbursement under this section."

SPONSOR ADMINISTRATIVE COSTS

Discussion

The current law gives sponsors some incentive to report more meals than they served or should have served, because it bases sponsors' maximum reimbursement for administrative costs on the number of meals served. (See enc. I, p. 10.) The following change would base each sponsor's maximum reimbursement for administrative costs on a program-related budget approved by the State in line with State-established and Service-approved guidelines.

Change

Amend section 13(b) as follows:

Delete:

> "(b) Disbursement to service institutions shall equal the full cost of food service operations, except that such financial assistance to any such institution shall not exceed (1) 75.5 cents for all costs excepting administrative costs for each lunch and supper served, (2) 6 cents for administrative costs for each lunch and supper served, (3) 42 cents for all costs except administrative costs for each breakfast served, (4) 3 cents for administrative costs for each breakfast served, (5) 19.75 cents for all costs except administrative costs for each meal supplement served, and (6) 1.5 cents for administrative costs for each meal supplement served: Provided, That the above amounts shall be adjusted each March 1 to the nearest one-fourth cent in accordance with changes for the year ending January 31 in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. The initial such adjustment shall reflect the change in the series for food away from home during the period January 31, 1975, to January 31, 1976. The cost of

food service operations shall include the cost of obtaining, preparing, and serving food and related administrative costs."

Insert in lieu of the deleted material:

"(b) Disbursement to service institutions shall equal the full cost of eligible food service operations, except that such financial assistance to any such institution shall not exceed (1) 75.5 cents for all costs excepting administrative costs for each lunch and supper served, (2) 42 cents for all costs except administrative costs for each breakfast served, and (3) 19.75 cents for all costs except administrative costs for each meal supplement served: Provided, That the above amounts shall be adjusted each March 1 to the nearest one-fourth cent in accordance with changes for the year ending January 31 in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. The initial such adjustment shall reflect the change in the series for food away from home during the period January 31, 1975, to January 31, 1976. The cost of food service operations shall include the cost of obtaining, preparing, and serving food. Service institutions shall be reimbursed for reasonable administrative costs associated with the food services provided for in this section. The State agency shall establish guidelines, subject to approval by the Secretary, for the size and salary of sponsors' staffs, as well as other administrative costs, and shall negotiate reasonable budgets with approved service institutions. Reimbursements for each service institution's administrative costs shall be for actual incurred costs or the amounts in the service institution's approved budget, whichever is less. Reimbursements of service institutions' costs under this section shall be reduced by the amount of funds available to the service institutions from other sources for these costs."

MEAL SERVICE

Discussion

The current law allows sponsors to serve up to five food services a day to children. This has resulted in (1) sponsors competing for children by offering to serve more meals than other sponsors, (2) wasted food, and (3) spiraling program costs. (See enc. I, p. 9.) The summer feeding program

was intended to continue into the summer months the food services available during the school year, and the following change would limit meal services for most sponsors to breakfast, lunch, and one supplement. Residential camps, if approved, would be permitted to serve suppers.

Change

Amend section 13(b) as follows:

Delete:

> "No service institution shall be prohibited from serving breakfasts, suppers, and meal supplements as well as lunches unless the service period of different meals coincides or overlaps."

Insert at the end of section 13(b):

> "Service institutions may be authorized to serve breakfast, one supplement a day, and lunch if the State agency determines that the institutions are capable of serving these meals in accordance with subsection (e) of this section, local health and sanitary standards, and the regulations prescribed by the Secretary. Residential camps may, in addition, be authorized to serve suppers. The service period of the different meals shall not coincide or overlap."

ADVANCE PAYMENTS TO SPONSORS

Discussion

Under the law, sponsors can receive, and have received, advances of Federal funds in excess of their needs and in excess of the amounts they ultimately would become entitled to receive. This happens because the law prescribes how the amounts of advances are to be determined. (See enc. I, p. 11.) The following change would permit States to determine the amounts of advances sponsors need based on assessments of sponsors' needs made by States pursuant to regulations prescribed by the Secretary.

Change

Delete the first sentence of section 13(d) which reads:

> "(d) No later than June 1, July 1, and August 1 of each year, the Secretary shall forward to each

State an advance payment for meals to be served in that month pursuant to subsection (b), which amount shall be no less than (1) the total payment made to such State for meals served pursuant to subsection (b) for the same calendar month of the preceding calendar year or (2) 65 per centum of the amount estimated by the State, on the basis of approved applications, to be needed to reimburse service institutions for meals to be served pursuant to subsection (b) in that month, whichever is the greater."

Insert in lieu of the above sentence:

"(d) The Secretary shall prescribe regulations providing for advances of funds at appropriate times to approved service institutions in amounts not exceeding the needs of the service institutions and shall provide funds to the State for the purpose of advancing funds to the service institutions pursuant to those regulations."

PROGRAM REGULATIONS

Discussion

Under the current law, the dates by which the Service is to issue regulations and related materials are too late for the States to orderly plan this program. (See enc. I, p. 11.) The following change would advance the issuance dates.

Changes

Delete the first sentence of section 13(f) which reads:

"(f) The Secretary shall publish proposed regulations relating to the implementation of the summer food program by January 1 of each fiscal year, and shall publish final regulations, guidelines, applications, and handbooks by March 1 of each fiscal year."

Insert in lieu of the deleted sentence:

"(f) The Secretary shall publish proposed regulations relating to the implementation of the summer food program by November 1 of each fiscal year; final regulations by January 1 of each fiscal year; and guidelines, applications, and handbooks by February 1 of each fiscal year."

STATE ADMINISTRATIVE FUNDS

Discussion

Some States have not spent all the administrative funds they were entitled to because they did not know in advance how much this would be. The unused funds, if properly used, could have improved program administration. (See enc. I, p. 10.) Also, States sometimes have waited until very late to notify the Service that they have decided not to administer the program.

Under the following change, maximum Federal reimbursement of State costs would be based on budgets prepared in advance by the States and approved by the Service. Also, a State would be required to give the Department timely and adequate notice if it chooses not to administer the program for the coming summer. Failure to give such notice could make the State liable for any excess costs the Secretary determines were caused by such failure.

Changes

Amend section 13(k) as follows:

Delete:

> "(k) The Secretary shall pay to each State for administrative costs incurred pursuant to this section an amount equal to 2 per centum of the funds distributed to that State pursuant to subsection (b): Provided, That no State shall receive less than $10,000 each fiscal year for its administrative costs unless the funds distributed to that State pursuant to subsection (b) total less than $50,000 for such fiscal year."

Insert:

> "(k) The Secretary is authorized to pay to each State agency an amount equal to all reasonable administrative costs, including, but not limited to, the cost of (1) planning; (2) outreach; (3) training; (4) monitoring, auditing, and investigating; and (5) settlement of sponsors' claims: Provided, That the State agency of each State desiring to participate shall submit to the Secretary for review and approval a plan of operation specifying the manner in which such program will be conducted within the State, and an annual

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budget covering these costs, and such reports as the Secretary may require from time to time. In fiscal year 1979 and subsequent years, no such payment shall be made to any State agency unless the Secretary is satisfied pursuant to regulations which the Secretary shall issue that an adequate number of qualified personnel are employed by the State in the program to administer the program efficiently and effectively. Also, to promote orderly planning, the Governor, or his designee, of any State in which the program is operated must give the Secretary written notice before the end of each fiscal year of whether the State intends to operate the program during the following fiscal year. Funds which would otherwise have been available for the administrative costs of any State agency shall, upon the State's notification to the Secretary that it does not intend to operate the program, become available for use by the Secretary in operating the program in that State."